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| 10/072,238 | 02/05/2002 | James B. Schrempp | AMC-005CIB | 5358 |

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EXAMINER

TANG, KAREN C

ART UNIT PAPER NUMBER

2151

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/072,238 | Applicant(s) SCHREMPP ET AL. | |
| | Examiner Karen C. Tang | Art Unit 2151 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/5/05.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/10/02, 10/18/02, 1/22/03, 5/29/03</u> | 6) <input type="checkbox"/> Other: _____ |
| <u>4/6/05, 4/20/05</u> | |

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- This action is responsive to the amendment and remarks file on 7/12/2005.
- Claims 1-44 are presented for further examination.
- The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8, 13, 18, 22, 24, 25, 27, 30, 39, 42, 33, 38 are rejected under 35 U.S.C. 102(e) being unpatentable over Goedken (US 2002/0133494).

1. Referring to Claim1, Pace discloses a new media identification system comprising:

at least one analysis module (selector) for receiving data including data for a work from a plurality of sources, generating a corresponding representation; from said data, and transmitting said representation (messages, refer to 0022-0025)

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at least one First Tier identification server (first search engine) for receiving said representation and identifying said work from said representation (refer to 0022 - 0023);

and at least one Second Tier Identification server for identifying said work from said representation when said at least one First Tier Identification server does not identify said work (refer to 0024).

2. Referring to Claim 2, Pace discloses wherein said at least one analysis module further includes an input port configured to receive said data from a networked source (refer to 0022).

3. Referring to Claim 3, Pace discloses wherein said at least one analysis module further includes an input port configured to receive said data from a broadcast source (network, refer to 0022-0028).

4. Referring to Claim 4, Pace discloses wherein said at least one analysis module (selector) further includes an input port configured to receive said data in the form of a pre-broadcast digital form (query, refer to 0005, 0022-0028).

5. Referring to Claim 5, Pace discloses wherein said at least one analysis module and said at least one First Tier Identification server coupled over a network (refer to 0022-0025).

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6. Referring to Claim 6, Pace discloses wherein said network comprises the internet (network, refer to 0022-0026).
7. Referring to Claims 8, 13, and 18, Goedken discloses wherein said spectral representation (message, refer to 0005, 0022-0028).
8. Referring to Claim 22, Goedken discloses the one analysis modules (selector) are further configured to received a plurality of streaming source for analysis at the single location (refer to 0022-0028).
9. Referring to Claim 24, Pace discloses wherein said at least one analysis module is configured to provide said representations to said at least one First Tier ID server at a predetermined time internal (refer to refer to 0022-0028, and 0093).
11. Referring to Claim 25, Goedken discloses wherein said predetermined time interval (refer to Col 0093).
12. Referring to Claim 27, Goedken discloses wherein said at least one analysis module is configured to provide said representation to said at least one First Tier server responsive to generating said representation (refer to 0022-0028)

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13. Referring to Claim 30, Pace discloses a method for identifying a work from data received by an analysis module that generates a representation of said data and wherein said data includes data of said work comprising:

receiving said representation by a First Tier Identification server (refer to 0022-0025);

attempting, by said First Tier Identification server to identify (refer to 0022-0025, 0075);

if identification of said work is not possible, then, determining whether said representation is similar to previously received unidentified representations (refer to 0024, Examiner interprets the Prior Art to be inherent that passes only similar representation to the second tier since the information pass from the first tier are the information/data that was within the first tier.); and

if said segment representation is similar to a previously received unidentified representation, then sending said representation to a Second Tier Identification server for identification (refer to 0024-0028).

14. Referring to Claim 39, Pace discloses a system for identifying new media comprising (refer to Title):

means for receiving said representation by a First Tier Identification server (refer to 0022 - 0026);

means for attempting, by said First Tier Identification server, to identify said from said representation (refer to 0022-0026);

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means for determining whether said representation is similar to previously received unidentified representation if identification of said work is not possible (refer to 0024, Examiner interprets the Prior Art to be inherent that passes only similar representation to the second tier since the information pass from the first tier are the information/data that was within the first tier);

and means for sending said representation to a Second Tier Identification server for identification if said representation is similar to a previously received unidentified representation (refer to 0024-0028).

15. Referring to Claim 42, Pace discloses a program storage device readable by a machine containing a set of instructions to perform a method by the machine, the method comprising:

receiving said representation by a First Tier Identification server (refer to 0022-0026);

attempting, by said First Tier Identification server, to identify said from said representation (refer to 0022-0026);

if identification of said work is not possible, then determining whether said representation is similar to previously received unidentified representations (refer to 0024, Examiner interprets the Prior Art to be inherent that passes only similar representation to the second tier since the information pass from the first tier are the information/data that was within the first tier); and

if said representation is similar to a previously received identified representation, then sending said representation to a Second Tier Identification server for identification (refer to 0024-0028).

16. Referring to Claim 33, Pace discloses a system for identifying a work using an N tiered Identification server system wherein said work is included in data received by an analysis module and wherein said analysis module generates a representation of said data and transmits said representation to said N tiered Identification Server system comprising:

a Tier N server (first search engine) including a database of a first plurality of representations of identified works (refer to 0024);

at least one Tier N+1 server (second search engine) including a database of a second plurality of representation of identified works (refer to 0024);

and wherein said Tier N server is configured to receive a representation and attempts to identify a work by comparing said representation to representations in said first plurality of representations and send repeating unidentified representations to said Tier N+1 for identification (compare information request with information categories, refer to 0024-0028).

17. Referring to Claim 37, Goedken discloses wherein the operation of said N+1 tiers is aborted upon the identification of an unknown segment by a member of said successive tiers (refer to 0022-0028).

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18. Referring to Claim 38, Goedken discloses two databases (refer to 0022-0028)

Goedken does not expressly indicate a set of smaller Tier-I servers having databases smaller than said Tier N server.

Pace discloses a set of smaller Tier-I servers having databases smaller than said Tier N server (refer to Col 4, 5 and 6)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 11, 12, 16, 17, 21, 23, 26, 28, 31, 32, 34, 35, 36, 40, 41, 43, 44, rejected under 35 U.S.C. 103(a) as being unpatentable over Goedken (US 2002/0133494) in view of Pace (US 6,460,050).

1. Referring to Claims 7, 12 and 17, Goedken discloses wherein said representation (message, refer to 0005, 0022-0028)

Goedken does not expressly indicate feature vectors.

It is obvious for ordinary skill in the art to correlate feature vectors functionality along with the presentation. Since to process message information requires

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system ordering/algorithms in able to pass the unrecognized sector/vector to the next server.

The suggestion/motivation for doing so would have been that it provides stability of the system by knowing how to process the message once the information is being receive, and the system can process the information with efficiency.

2. Referring to Claims 11, 16 and 21, Goedken discloses the second Tier ID server is configured to identify said received work (refer to 0022-0028).

Goedken does not expressly indicate calculated key.

Pace discloses wherein said Second Tier ID server is configured to identify said received work using a bit calculated key (refer to Col 3, Lines 60-67 and Col 4, Lines 1-15 and Col 5, Lines 1-30).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate the calculated key in the server to identify the work due to the fact that both Goedken and Pace's design are to process information in able to identify the information.

The suggestion/motivation would have been that Goedken's system that posses servers that processes information with proper order and rules, which the rules requires calculation to process the information. Thus, it would only been obvious to incorporate a calculated key to enhance the process with the ordering manner.

3. Referring to Claim 23, Goeken discloses at least one analysis modules to receive a data at different points of the network (refer to 0022-0028).

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Goeken does not expressly disclose a plurality of streaming sources for analysis at a plurality of different access points of the network (refer to Col 1, Lines 1-55) Pace discloses wherein said at least one analysis modules are further configured to receive a plurality of streaming sources for analysis at a plurality of different access points of the network (Examiner interprets that provider's location can be anywhere, refer to Col 1, Lines 1-55).

4. Referring to Claim 26, Goedken discloses discloses the time frame (refer to 0093).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to alter the time.

5. Referring to Claim 28, Goedken discloses wherein said at least one analysis module is configured to provide said representations to said at least one First Tier Identification server (refer to Col 5, Lines 40-55)

Goedken does not discloses out of band event.

It is obvious for ordinary skill in the art to incorporate the representation on the out-of-band event while analysis the information.

The suggestion/motivation would have been that the Goedken uses the servers independently while processing the data, in another word, while utilizing the system to processing the information, the server does not rely on network to processing the data, thus, even when the out of band event happened, the representation can still be analyses by the analysis module.

6. Referring to Claims 31, 40 and 43, Goedken discloses wherein said Second Tier Identification server includes a plurality of tiers of Identification servers (database comprises a server/manager, refer to 0022-0028, 0095).

7. Referring to Claim 32, 41 and 44, Goedken discloses further including the act of providing a reference database of representation expected to be detected on said First Tier Identification server (refer to 0024).

8. Referring to Claim 34, Goedken discloses passing the unidentified information from the Tier N server to Tier N+1 server (refer to 0022-0028)

Goedken does not expressly indicate wherein said at least one Tier N+1 server is configured to notify said Tier N server of a repeating segment if a repeating segment is identified.

It would have been obvious to a person of ordinary skill in the art to indicate the notification of the servers from the Tier N+1 server to the Tier N server.

The suggestion/motivation would have been that by providing the notification, it would provide the information to let the system to know that the entire work/representation is complete and can further the procesecution of the work once the entire portions of data are being identified. It would provide conveniences for the system users so that the user does not require to monitor the information specifically.

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9. Referring to Claim 35, Goedken discloses wherein each successive said at least one Tier N+1 includes a database (refer to 0022-0028).

Goedken does not disclose database larger than the previous database.

Pace discloses database larger than the previous tier database (refer to Col 6, Lines 62-67 and Col 7, Lines 1-5).

At the time of the invention, it would have been obvious of ordinary skill in the art to indicate the size of two databases while processing the information.

The suggestion/motivation would have been that the first server/database does not comprises all the capability that second server/database has, that is why the first server/database will not recognize all the information that is being received and has to sent the unrecognized information to the second server/database, therefore, the second server/database comprises more information than the first servers.

10. Referring to Claim 36, Goedken discloses two servers (refer to 0022-0028).

Goedken does not expressly wherein all said at least one N+1 tiers operate in parallel.

It is obvious to have an operating system run in parallel due to the fact that users can save processing time by having the server running in parallel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 14, 15, 19, 20, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goedken (US 2002/0133494) in view of Abe et al hereinafter Abe (US 2002/0123990).

1. Referring to Claims 9, 14 and 19, Goedken discloses wherein said Second Tier Identification server is configured to identify said received work (refer to 0022-0028)

Goedken does not expressly indicate utilizing the speech recognition system.

Abe discloses using the text output of a speech recognition system (refer to Fig 5).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Goedken and Abe.

It is not a patent distinction rather than field of usage limitation. The suggestion/motivation for doing so would have been that utilizing the text output of a speech recognition can apply on different environment.

2. Referring to Claims 10, 15 and 20, Goedken discloses wherein said Second Tier Identification server is configured to identify said received work (refer to 0022-0028).

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Goedken does not expressly indicate utilizing the musical score output of a music transcription system.

Abe discloses using the musical score output of a music transcription system (refer to Fig 5).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Pace and Abe.

It is not a patent distinction rather than field of usage limitation. The suggestion/motivation for doing so would have been that utilizing the music transcription system can apply on different environment.

3. Referring to Claim 29, Goedken discloses wherein said First Tier Identification server (refer to Col 30-50)

Goedken does not expressly generate a playlist of identified work.

Abe discloses having a playlist (refer to Fig 5)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Pace and Abe.

The suggestion/motivation would have that Pace indicate utilizing the storage to store rejected messages (refer to Col 5, Lines 1-15). It is indicate that the depository stores unwanted emails/messages that is a list of messages/emails.

Response to Arguments

Applicant's arguments filed 08/05/05 are mooted in views of the new grounds of rejection.

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Conclusion

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Karen Tang

10/12/05


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER